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**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

RODEL ABAD,)	Case No.: 16-3812
)	
)	COMPLAINT
Plaintiff,)	
)	
v.)	
)	
U.S. BANK N.A.,)	
)	
)	
Defendant.)	

RODEL ABAD (Plaintiff), by his attorneys, LAW OFFICES OF RYAN LEE, PLLC,
alleges the following against U.S. BANK N.A. (Defendant):

INTRODUCTION

1. Count I of Plaintiff's Complaint is based on Telephone Consumer Protection Act, 28 U.S.C. § 227 *et seq.* (TCPA).
2. Count II of the Plaintiff's Complaint is based on Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code § 1788 *et seq.* (RFDCPA).

JURISDICTION AND VENUE

3. Jurisdiction of this Court over Counts I of Plaintiff's Complaint arises pursuant to 28 U.S.C. § 1331, and 28 U.S.C. § 1367 grants this court supplemental jurisdiction over the state claims contained herein.
4. Defendant conducts business in the State of California thereby establishing personal jurisdiction.
5. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

6. Plaintiff is a natural person residing in Vallejo, California.
7. Defendant is a business entity with a principal place of business in Minneapolis, Minnesota.
8. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

9. In or around March 2015, Defendant began constantly and continuously places collection calls to Plaintiff seeking and demanding payment for an alleged debt.
10. Plaintiff's alleged debt arose through a consumer credit transaction.
11. Defendant places collection calls to Plaintiff's cellular telephone at phone number 707-980-2910.
12. On March 15, 2016 at 12:45 p.m., Plaintiff contacted Defendant at 877-838-4347 and spoke with Defendant's female representative. During that conversation, Plaintiff requested that Defendant stop calling his cellular phone.
13. Based upon the timing and frequency of Defendant's calls and per its prior business practices, each of Defendant's calls were placed using an automatic telephone dialing system.

1 14. Plaintiff revoked any consent, express, implied or otherwise, to receive automated
2 collection calls from Defendant in the course of the telephone conversation in or around
3 March 15, 2016.

4 15. Despite Plaintiff's request to cease, Defendant placed at least one hundred and forty-five
5 (145) collection calls to Plaintiff despite Plaintiff's request to cease.

6 **COUNT I**

7 **DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTIONS ACT**

8 16. Defendant's actions alleged *supra* constitute numerous negligent violations of the TCPA,
9 entitling Plaintiff to an award of \$500.00 in statutory damages for each and every violation
10 pursuant to 47 U.S.C. § 227(b)(3)(B).

11 17. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or
12 willful violates of the TCPA, entitling Plaintiff to an award of \$1500.00 in statutory
13 damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C.
14 § 227(b)(3)(C).

15 Wherefore, Plaintiff, RODEL ABAD, respectfully requests judgment be entered against
16 Defendant, U.S. BANK N.A. for the following:

17 18. Statutory damages of \$500.00 for each and every negligent violation of the TCPA pursuant
18 to 47 U.S.C. § (b)(3)(B);

19 19. Statutory damages of \$1500.00 for each and every knowing and/or willful violation of the
20 TCPA pursuant to 47 U.S.C. § (b)(3)(b) and 47 U.S.C. § (b)(3)(C);

21 20. All court costs, witness fees and other fees incurred; and

22 21. Any other relief that this Honorable Court deems appropriate.

23 **COUNT II**

24 **DEFENDANT VIOLATED THE ROSENTHAL FAIR DEBT COLLECTION**
25 **PRACTICES ACT**

22. Plaintiff repeats and realleges all of the allegations in Count I of Plaintiff's Complaint as

1 the allegations in Count II of Plaintiff's Complaint.

2 23. Defendant violated the RFDCPA based on the following:

3 a. Defendant violated § 1788.11(d) of the RFDCPA by causing a telephone to ring
4 repeatedly or continuously to annoy the person called;

5 b. Defendant violated § 1788.11(e) of the RFDCPA by communicating with Plaintiff
6 with such frequency as to be unreasonable and to constitute a harassment to
7 Plaintiff.

8 c. Defendant violated § 1788.17 of the RFDCPA by failing to comply with the Fair
9 Debt Collection Practices, Act, 15 U.S.C. § 1692 *et seq.*, to wit:

10 1. Defendant violated §1692d of the FDCPA by engaging in conduct the
11 natural consequence of which is to harass, oppress, or abuse Plaintiff;

12 2. Defendant violated §1692d(5) of the FDCPA by causing a telephone to
13 ring repeatedly or continuously with intent to annoy, harass, or abuse
14 Plaintiff.

15 WHEREFORE, Plaintiff, RODEL ABAD, respectfully requests judgment be entered
16 against Defendant, U.S. BANK N.A. for the following:

17 24. Statutory damages of \$1,000.00 pursuant to the Rosenthal Fair Debt Collection Practices
18 Act, Cal. Civ. Code §1788.30(b),

19 25. Costs and reasonable attorneys' fees pursuant to the Rosenthal Fair Debt Collection
20 Practices Act, Cal. Civ. Code § 1788.30(c), and

21 26. Any other relief that this Honorable Court deems appropriate.

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DATED: July 7, 2016

RESPECTFULLY SUBMITTED,

LAW OFFICES OF RYAN LEE, PLLC

By: /s/ Ryan Lee _____
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